IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA	)	
	)	**Criminal No. 3:16-CR-0139**
v.	)	
	)	
RICHARD TODD HAAS,	)	
	)	
Defendant.	)	

SUPPLEMENTAL RESPONSE BRIEF OF THE UNITED STATES

The United States of America, by and through its attorneys, Dana J. Boente, United States Attorney for the Eastern District of Virginia, and Heather Hart Mansfield, Assistant United States Attorney, hereby files its supplemental response brief to the Defendant's Motion to Suppress, pursuant to the Order of this Court on February 10, 2017.

Background

On September 1, 2017, agents of the FBI executed a search warrant for the defendant's residence. Defense Exhibit B, Paragraph 25. That search warrant was obtained on August 31, 2016 and signed by United States Magistrate Judge Roderick Young. Defense Exhibit A. When agents executed the search warrant at the defendant's residence on September 1, 2016, the defendant had already left for work. Defense Exhibit B, Paragraph 25. Agents proceeded to the defendant's work location and encountered him in a work vehicle, the 1995 Ford tractor-trailer truck that is the subject of the search warrant. *Id.* The defendant was then arrested pursuant to an arrest warrant obtained by the state, which charged him with sexual battery of a minor. *Id.* Incident to arrest, agents seized a cellular phone from the defendant's pocket, and the agents performed a protective sweep of the truck. *Id*. During that sweep of the truck, an agent observed a laptop bag, containing a laptop computer. *Id*. Special Agent Melvin Gonzalez of the Federal Bureau of Investigation ("FBI) then obtained a search warrant for a 1995 Ford Tractor-Trailer Truck and a Samsung Galaxy S5. Defense Exhibit B. That search warrant was also signed by United States Magistrate Judge Roderick Young on September 1, 2016.

Argument

I. The warrant for the tractor-trailer truck, Defendant's Exhibit B, contains sufficient information for a finding of probable cause.

The warrant for the tractor-trailer truck, Defense Exhibit B, contained sufficient information for the magistrate judge to conclude that evidence of a crime was likely to be found at the location authorized by the search warrant.

Courts have repeatedly emphasized that "[a] magistrate's determination of probable cause should be paid great deference by reviewing courts." *Illinois v. Gates*, 462 U.S. 213, 236 (1983), internal citations omitted; *United States v. Lalor*, 996 F.2d 1578, 1581 (4th Cir. 1993). "In determining whether a search warrant is supported by probable cause, the crucial element is not whether the target of the search is suspected of a crime, but whether it is reasonable to believe that the items to be seized will be found in the place to be searched." *Lalor,* 996 F.2d at 1582. "[P]robable cause can be inferred from the circumstances, and a warrant is not invalid for failure to produce direct evidence that the items to be seized will be found at a particular location." *Id*., citing *United States v. Anderson*, 851 F.2d 727, 729 (4th Cir. 1988).

The affidavit for the search warrant at issue in this case, Defense Exhibit B, laid out specific information provided by CW to federal agents about the defendant's possession child pornography and attempts to produce child pornography. CW told agents that she knew the defendant possessed child pornography because the defendant showed CW child pornography on a laptop computer in his home and spoke to her about producing child pornography. Defense Exhibit B, ¶8. The affidavit included extensive corroborating information of CW's statement, as is discussed more fully in Section II, *infra*. Most relevant for these purposes, CW recorded a phone call with the defendant during which CW and the defendant discussed child pornography. Defense Exhibit B, ¶11. In that conversation, the defendant confirmed for CW that younger children were better for their purposes. *Id*. Moreover, this specific affidavit included the fact that agents executed a search warrant at Haas's home earlier that day. Exhibit B, ¶25. The affidavit stated that Haas was not home at that time, and agents located him in his work vehicle and arrested Haas pursuant to an arrest warrant. *Id*. During the search incident to arrest, agents observed a laptop computer in Haas's work vehicle. *Id*.

The affiant to the search warrant, Special Agent Gonzalez included pertinent details about his background in the affidavit. Special Agent Gonzalez is assigned to the Child Exploitation Task Force and was trained by the FBI in child exploitation. Exhibit B, ¶1. In addition to the information supplied about this specific investigation and the reasons to believe that Haas possessed and was attempting to produce child pornography, the affidavit included information about collectors of child pornography. Exhibit B, ¶27. The affidavit stated that this information is based on the experience of the affiant and other law enforcement officers with whom he has spoken. *Id*. The affidavit explained that individuals who view, possess and collect child pornography typically retain these images, in various forms, for many years. Exhibit B, ¶27, Section c. Individuals who view, possess, and collect child pornography "often maintain their collections that are in a digital or electronic format in a safe, secure and private environment, such as a computer and surrounding area. These collections are often maintained for several years and are kept close by, usually at the collector's residence, or inside the collector's vehicle, to enable the individual to view the collection, which is valued highly." Exhibit B, ¶27, Section d.

A magistrate judge could clearly determine from these circumstances that the laptop in Haas's work vehicle was likely to contain child pornography. "It is clear that the use of profiles, in conjunction with other evidence, to establish probable cause is allowable." *United States v. Sassani*, 1998 WL 89875, 3 (4th Cir. 1998) (unpublished opinion). Courts have consistently relied on information contained in search warrant affidavits regarding child pornography viewers and collectors in making a probable cause determination. *See United States v. Richardson*, 607 F.3d 357 (4th Cir. 2010) (Upholding four-month lapse in time between email of child pornography by the target and the issuance of the search warrant based on information in the search warrant affidavit that "child pornographers rarely, if ever, dispose of their sexually explicit materials, and that even if a computer file is deleted from a hard drive or other computer media, a computer expert is still likely to retrieve…such files through scientific examination of the computer." at 370-371.); *United States v. Gourde*, 440 F.3d 1065 (9th Cir. 2006) ("The details on the use of computers by child pornographers and the collector profile strengthen this inference and help provide context for the fair probability that Gourde received or downloaded images." at 1072.); *United States v. Lamb*, 943 F.Supp 441 (N.D. Ny. 1996) ("The observation that images of child pornography are likely to be hoarded by persons interested in those materials in the privacy of their homes is supported by common sense and the cases. Since the materials are illegal to distribute and possess, initial collection is difficult. Having succeeded in obtaining images, collectors are unlikely to quickly destroy them." at 460.).

When agents observed a laptop computer in the defendant's work vehicle, they immediately went back to the magistrate judge for authority to seize and search that device because they knew that it likely contained child pornography. They included sufficient information in the affidavit for the search warrant to establish probable cause that Haas possessed images of child pornography on a laptop computer and was interested in producing more images of child pornography. The affidavit included extensive information on the profile of child pornography collectors that would allow a finding of probable cause that the laptop in Haas's work truck contained images of child pornography. The affidavit expressly stated that child pornography collectors and viewers often keep their collection close and in a secure location, such as in their homes or vehicle. Like most collectors of child pornography in modern times, Haas possessed digital images and the affidavit established reason to believe that he was likely to keep these digital images close to him. Therefore, after reading the affidavit, it is reasonable for the magistrate judge to conclude that there is probable cause that the laptop in Haas's work vehicle, where Haas was found, would contain child pornography.

II. Even with the omission of CW's criminal history, there is probable cause for the search warrant, Defendant's Exhibit B.

The lack of information concerning CW's criminal history and pending charges does not render the warrant invalid because there was sufficient information, considering the totality of the circumstances , for a magistrate to conclude that probable cause exists based on the information provided by CW.

In making a probable cause determination, courts are to use a totality of the circumstances approach. *Illinois v. Gates*, 462 U.S. at 230. "This totality-of-the-circumstances approach is far more consistent with our prior treatment of probable cause than is any rigid demand that specific tests be satisfied by every informant's tip." *Id*. at 230-231. "An important factor in determining whether an informant's report establishes probable cause is the degree to which it is corroborated." *United States v. Lalor*, 996 F.2d 1578, 1581 (4th Cir. 1993).

The search warrant affidavit in this case stated that the FBI received information from a confidential witness ("CW") about the defendant's possession of child pornography and attempted production of child pornography. Exhibit B, ¶7. CW told agents that she had known Haas for four years and that CW and Haas reconnected in May 2016. Exhibit B, ¶8. CW explained that she knew Haas because she provided escort services to Haas[1], and during one of their meetings at Haas's residence in Chesterfield County, Haas showed CW images on his laptop of juvenile females, between the ages of 5 and 12 years of age, engaged in sexually explicit acts. *Id*. CW stated that Haas masturbated to the photos while he showed them to her and asked CW to be involved in the production of child pornography with him. *Id*.

The affidavit then detailed the steps that agents took to corroborate the information CW provided. Agents displayed a photograph to CW of the defendant, and CW confirmed that was Haas. Exhibit B, ¶9. Agents pulled a photograph of the residence owned by Haas at the time, and CW verified that this was the residence that she visited with Haas when he displayed child pornography to her. Exhibit B, ¶13. CW provided a phone number for Haas, and agents used law enforcement databases to confirm that Haas has used that number as a contact phone number. *Id*. Additionally, agents obtained subscriber information from Verizon Wireless and

1 Defendant states in his motion on page six that the fact that CW was a prostitute was not included in the affidavit; however, the affidavit makes clear that CW provided escort services to Haas.

confirmed that the phone number is registered to Richard T. Haas, with a mailing address of P.O. Box 35085, North Chesterfield, Virginia. Exhibit B, ¶20. Agents then confirmed that P.O. Box 35085 belonged to Richard T. Haas, and cross-referenced that with Haas's DMV records, which displays P.O. Box 35085, North Chesterfield, VA as his address. Exhibit B, ¶21. CW told agents that Haas drove a light-colored Jetta, and agents surveilled Haas's new residence and observed Haas depart in a white, VW Jetta. Exhibit B, ¶24.

Moreover, the affidavit details that CW made two recorded telephone calls to the defendant in August 2016. Exhibit B, ¶11. The affidavit explained that Haas requested photographs of underage girls in exchange for money. *Id*. The affidavit also stated that "Haas advised CW that the younger the better inasmuch as **the others** prefer younger females." *Id*., emphasis added. Any suggestion by the defendant that the warrant did not include the reference to other individuals is incorrect. It is clear that the defendant is discussing "others" to whom they will distribute the child pornography. The affidavit further detailed that, in these calls, Haas advised that the younger the age of the children, the better and that CW could make a lot of money from this. *Id*.

The evidence adduced at the hearing through the testimony of Special Agent Gonzalez demonstrated that, at the time of the search warrant, Agent Gonzalez was aware that CW was on probation, but that he was not sure of the underlying conviction that led to that probation. Hearing Tr. 25. Agent Gonzalez additionally testified that he did not run a criminal record check of CW until January 2017 when it was requested by the Assistant United States Attorney. *Id*. Agent Gonzalez also testified that CW told him on July 21, 2016 that she had an encounter with Henrico County Police on July 14, 2016. Tr. At 30-31. CW told agents that she made a false statement to law enforcement during that encounter. *Id*. Agent Gonzalez testified that CW voluntarily provided that information and stated that she wanted to take care of the situation. Hearing Tr. at 32. Agent Gonzalez then contacted a member of the Henrico Police Department and explained the situation. *Id*. He took CW to her court date and she was arrested and held on charges of providing false information. Hearing Tr. 32-33.

The failure of agents to include the criminal history of CW in the search warrant affidavit does not render the probable cause determination invalid because agents included extensive corroboration of CW's statements. "[Supreme Court] decisions applying the totality-of-the-circumstances analysis…have consistently recognized the value of corroboration of details of an informant's tip by independent police work." *Gates*, 462 U.S. at 241. In this case, agents corroborated every aspect that they could of the information that CW gave them. They confirmed that the defendant owned the residence identified by CW. Agents confirmed that the phone number that CW identified as belonging to Haas was his phone number. They confirmed that Haas drove the type of vehicle identified by CW. "Corroboration of apparently innocent details of an informant's report tends to indicate that other aspects of the report are also correct." *Lalor*, 996 F.2d at 1581, citing *Gates*, 462 U.S. at 244.

Nevertheless, agents went beyond corroborating "innocent details" of CW's statement in this case. Agents had CW engage Haas on recorded phone calls to discuss producing child pornography. As is clear in the search warrant affidavit, CW told agents that Haas discussed producing child pornography with CW at the meeting where Haas showed CW child pornography. Exhibit B, ¶8. That is the context of the phone calls. On August 16, Haas states to CW, "Get me some pictures too, man, because I can like set it up to where we can make some money beforehand, so…" Exhibit E, p. 2. CW then asks, "Ok, and how does it work with, um, like the way that you do it, is it like the, the um, the younger the more moola, or?" *Id*. And Haas responds, "Yeah." *Id*. In that some conversation, after CW tells Haas that she has a 12 and a 8, Haas stated," Yeah that's, the lower side of that is definitely better." *Id*. It is a fair inference that a discussion of photographs that includes the phrase "the younger, the more moola" is a reference to images of child pornography.

"The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the veracity and basis of knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in particular place." *Gates*, 462 U.S. at 238. The omission of CW's criminal history does not affect the probable cause determination in this case because the magistrate had extensive corroboration of the information provided by CW in the affidavit to assess the totality of the circumstances of CW's statement and make a probable cause determination. Furthermore, the magistrate was aware from the affidavit that CW was engaged in the escort business, providing services to Haas. Therefore, the magistrate was aware that CW was engaged in some form of illegal activity. "[E]ven if we entertain some doubt as to an informant's motives, his explicit and detailed description of alleged wrongdoing, along with a statement that the event was observed first-hand, entitles his tip to greater weight than might otherwise be the case." *Id*. at 234.

In *United States v. Wilhelm*, 80 F.3d 116 (4th Cir. 1996) the Fourth Circuit invalidated a probable cause finding for a search warrant where the affidavit rested entirely on information provided by an informant and the affidavit "provided no indication of that informant's truthfulness or reliability." *Wilhelm*, 80 F.3d at 120. The Fourth Circuit emphasized, however, that it could not uphold this warrant because it relied on "use of an unknown, unproven informant-with *little or no corroboration*-to justify searching someone's home." *Id*. *Wilhelm* is distinguishable from the instant case in which the affidavit showed that agents met with CW several times in person and corroborated every detail of her statement that they possibly could. The affidavit provided extensive information to the magistrate from which the magistrate could assess the veracity and reliability of CW's statement, her basis of knowledge and the circumstances under which CW gained this information. Defendant cites to *United States v. Glover*, 755 F.3d 811 (7th Cir. 2014). Although in that instance, the Seventh Circuit found that omission of credibility information was fatal to the affidavit at issue, the court recognized that "omission of an informant's criminal background and financial motive is not necessarily essential to the probable cause determination…in the context of a detailed affidavit that had been extensively corroborated." *Glover*, 755 F.3d at 818. It should be noted that the Seventh Circuit has a distinct five-factor analysis used for evaluating the totality of the circumstances that does not exist in that specific form in our Circuit.

The omission of CW's criminal history from the search warrant affidavit does not affect the probable cause determination made by the magistrate because the affidavit included sufficient information for the magistrate to make a probable cause determination using a totality of the circumstances approach.

III. Agents relied in good faith on the search warrant issued by a United States Magistrate Judge.

Even if this Court disagrees with the above arguments made by the Government regarding the finding of probable cause, the evidence in this case should not be suppressed because the agents relied in good faith on an extensive search warrant issued by a United States Magistrate Judge.

The Supreme Court established the rule of good faith reliance on search warrants as an exception to the exclusionary rule in *United States v. Leon*, 468 U.S. 897 (1984). In that case, the Court held that "the marginal or nonexistent benefits produced by suppressing evidence obtained in objectively reasonable reliance on a subsequently invalidated search warrant cannot justify the substantial costs of exclusion." *Id*. at 922. This exception has its limits, however, and the Court stated that the good-faith exception would not apply if "the magistrate or judge in issuing the warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;" " where the issuing magistrate wholly abandoned his judicial role;" if the affidavit is "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable;" or if a warrant is "so facially deficient…that the executing officers cannot reasonably presume it to be valid." *Id*. at 923.

A. The Good Faith Exception should apply if this Court finds that there was not a sufficient nexus to the laptop in the work vehicle.

The good faith exception should apply, even if this Court finds that the search warrant affidavit, Defense Exhibit B, did not establish probable cause to search defendant's work vehicle for a laptop computer. Agents relied on a 37-page search warrant signed by a United States Magistrate Judge in conducting that search and none of the circumstances in which good faith would not apply are applicable.

This case does not involve a situation of a "bare bones" affidavit, which is defined as an affidavit which "contains wholly conclusory statements, which lack the facts and circumstances from which a magistrate can independently determine probable cause." *Wilhelm,* 80 F.3d at 121, citing *United States v. Laury,* 985 F.2d 1293, 1311 n. 23 (5th Cir. 1993). "A bare bones affidavit is similar to, if not the same as, a conclusory affidavit in that it states only the affiant's belief that probable cause existed." *United States v. Perez,* 393 F.3d 457, 465 (4th Cir. 2004), internal citations omitted. Much like the affidavit in *Perez*, the affidavit at issue involved several "face-to-fact meeting[s] with a witness who revealed [her] identity…instead of the anonymous phone call at issue in *Wilhelm*." *Id*. at 464. The affidavit included, in at least six paragraphs, the steps agents had taken to corroborate details provided by CW. Exhibit B, ¶¶9, 10, 11, 13, 20, 21. Additionally, the affidavit included information about the profile of collectors of child pornography and how they maintain and store their collections. Exhibit B, ¶27. It detailed how collectors use computers in connection with child pornography. Exhibit B, ¶¶28-34. It was entirely reasonable for Agent Gonzalez to rely on this lengthy search warrant signed by a United States Magistrate Judge in executing the search of the laptop located in Haas's work vehicle.

B. The Good Faith exception should apply if this Court finds that the warrant issued without probable cause because of the failure to include CW's criminal history.

Defendant submits in his brief that the good-faith exception should not apply in this case because the affidavits includes misstatements and omits CW's criminal history. The defendant first states that the failure to provide CW's criminal history, her status as an offender on probation, violations of that probation status, her deception of law enforcement, requests to law enforcement to assist with her legal problems, and efforts by law enforcement to assist with her legal problems are all omissions that prevent the good faith exception from applying. As an initial matter, there is no evidence that Agent Gonzalez included any false information about CW's background in the search warrant affidavit. He represented to the magistrate that CW had known Haas for approximately four years and during that time, "CW provided escort services to Haas." Exhibit B, ¶7. Additionally, Agent Gonzalez testified that he was unaware of CW's criminal history at the time of the search warrant affidavit. Hearing Tr. 25. Agent Gonzalez was aware that CW was on probation and that she had provided false information to law enforcement during a traffic stop, which are not included in the affidavit. Hearing Tr. 26, 30.

The Government disputes defendant's statement that CW requested assistance in "fixing" the issue of her false statement to law enforcement. The evidence adduced at the hearing was that CW voluntarily advised the agent that she provided false information to the Henrico Police Department during a traffic stop and "stated that she wanted to take care of it." Hearing Tr. 32. Agent Gonzalez testified that he contacted a member of the Henrico Police Department and told him that CW had provided false information to a police officer. *Id.* CW was then arrested at her court hearing on a felony arrest warrant for providing false information to a police officer and held in jail without a bond. Hearing Tr. 33. The Government submits that this demonstrates that agents did not help CW "fix" her legal problems, but instead, helped her turn herself on in felony charges of providing false information to the Henrico County Police. Therefore, the only omission in the search warrant that Agent Gonzalez knew at the time of the warrant was that CW was on probation and had lied to law enforcement during a traffic stop. This omission does not require exclusion because the Agent took substantial steps to corroborate the information provided by CW prior to obtaining a search warrant. *See Wilhelm*, 80 F.3d at 123 (holding that good faith exception does not apply because affiant "could not reasonably rely on an unknown, unavailable informant without significant corroboration.”). Despite defendant’s assertions that Agent Gonzalez failed to corroborate the information provided by CW, the record is replete with the steps taken by law enforcement to corroborate this information, as explained in Section II of this brief.

Moreover, the transcripts of the phone calls support the assertion that Haas discussed the production of child pornography with the defendant and do not support defendant’s statement that the search warrant affidavit included a material misstatement. The transcript shows that Haas stated during the phone call to CW that she should get him some pictures because he can make money “beforehand.” Exhibit E, p. 2. It is a fair inference that one makes money from selling nude pictures of children and not clothed pictures of children. In that same call, CW asks, “the younger the more moola, or?” and Haas states yes. *Id*. CW tells Haas she has a 12 and an 8, and Haas states “the lower side of that is definitely better…I mean there’s definitely, there’s definitely money in other but you know, um it’s not as much as the other.” These statements wholly support Agent Gonzalez’s statement in the affidavit that Haas and CW were discussing producing child pornography of females under the age of 12 years in order to sell to others make money. Exhibit B, ¶12. The evidence does not support the defendant’s statement that there were material omissions or misstatements made by Agent Gonzalez in the search warrant affidavit.

The magistrate was not misled by information that the agent knew or should have known was false. Therefore, the good faith exception should apply if this Court finds a lack of probable cause in the search warrant affidavit.

IV. Lull

In his brief, the defendant cites to *United States v. Lull*, 824 F.3d 109 (4th Cir. 2016) and asserts that it is applicable to this case. *Lull* is inapplicable to this case and does not compel this Court to find that the search warrant in this case lacked probable cause.

The Fourth Circuit in *Lull* considered the validity of a search warrant where the agent omitted the fact that, during the controlled buy at issue in the case, the informant stole $20 from the Sheriff's Office and lied to officers about it. *Lull*, 824 F.3d at 112. The affidavit also did not contain any information about this particular informant's reliability or his prior experience as an informant for the Wake Forest Police Department. *Id*. at 113. The district court in *Lull* held a *Franks* hearing and heard testimony from law enforcement officers, and the district court found no *Franks* violation. Therefore, the Fourth Circuit was specifically considering whether the defendant satisfied the intentionality and materiality prongs of a *Franks* analysis. *Lull*, 824 F.3d at 115.

The Fourth Circuit pointed out that "the defendant's burden in showing intent is greater in the case of an omission because '[a]n affiant cannot be expected to include in an affidavit every piece of information gathered in the course of an investigation.'" *Id*., citing *United States v. Colkley*, 899 F.2d 297, 300 (4th Cir. 1990). Despite recognizing the greater burden in the case of an omission, the Fourth Circuit ultimately concluded that the omission of the informant's theft was, at a minimum reckless, stating, "The informant demonstrated that he was unreliable during the course of this very transaction. Given this, how the informant's behavior and his conduct in stealing that money could have absolutely nothing to do with that controlled purchase, as Investigator Welch contends, eludes us." *Id*. at 116. The court then considered the second prong of the *Franks* analysis, namely whether the omission was material. The Court found "that the omitted information seriously calls into question the informant's reliability." *Id*. at 118. The "omissions therefore prevented a neutral magistrate from being able to accurately assess the reliability and the veracity, and thus the significance of the informant's statements…Because of this, we cannot now rely on these statements in assessing whether probable cause existed." *Id*. The court then found that there was not sufficient probable cause to support the warrant without the informant's statements.

The entire context of *Lull* is distinct from this case. *Lull* analyzed and decided a *Franks* issue as to whether material omitted from a warrant violated Lull's Fourth Amendment rights under *Franks v. Delaware*, 438 U.S. 154 (1978). In *Lull*, the court did not even consider whether good faith applied because that analysis is not applicable to a situation involving a *Franks* violation. The defendant asks this Court to do as the Court did in Lull and excise the statements of CW from the affidavit, but the situation presented to this Court is much different from the one in *Lull*. In *Lull*, there was testimony that the affiant had deliberately chosen not to include relevant information about the transaction that formed the basis for the probable cause determination in the affidavit. *Lull*, 824 F.3d at 116. This Court already found that the showing for a *Franks* hearing was not met in this case. Hearing Tr. 3-4.

Moreover, once the court in *Lull* found a *Franks* violation and determined that the omitted information was material to probable cause, it could no longer "rely on these statements in assessing whether probable cause existed." *Lull*, 824 F.3d 109. Therefore, the court considered what was left of the affidavit without the information and determined that the affidavit could not support probable cause. This Court is not compelled to follow that analysis because, as explained above, this Court is not dealing with an intentional omission material to the probable cause determination. Even if this Court disagrees with the Government that the search warrant affidavit included sufficient information for a probable cause determination, it should then do a good faith analysis, not simply excise that information from the affidavit as done in *Lull*.

The factual context of *Lull* is distinct from this case and therefore, the legal analysis in this case is not controlled by *Lull*.

Conclusion

For the foregoing reasons, the Court should find that there was sufficient information for a magistrate to find probable cause for the search warrant of defendant's work vehicle, Defense Exhibit B, and deny the defendant's motion to suppress.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 27, 2017, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

/s/

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